

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00117
Petitioners: Earnest & Lola Caldwell
Respondent: Department of Local Government Finance
Parcel #: 008-08-15-0200-0001
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent on January 29, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$111,300 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties on August 09, 2004.
4. A hearing was held on September 22, 2004, in Crown Point, Indiana before Special Master Peter Salveson.

Facts

5. The subject property is located at 6335 Roosevelt Street, Merrillville, in Ross Township.
6. The subject property is a single-family home on .637 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land \$27,400 Improvements \$83,900 Total \$111,300.
9. The Petitioners did not request a lower assessed value during the hearing.
10. Persons sworn as witnesses at the hearing:
For Petitioner — Earnest Caldwell, Owner
For Respondent — David M. Depp, Representing the DLGF

Issue

11. The Petitioners contend that the property taxes on the subject property are too high. *Caldwell Testimony.*
12. Summary of Respondent's contentions in support of assessment:
 - a) The Respondent contends that the characteristics of the subject property are listed correctly on the property record card. *Depp Testimony; Respondent Exhibit 2.*
 - b) The comparable sales of improved properties support the current valuation of the improved parcel. *Depp Testimony; Respondent Exhibit 4.*

Record

14. The official record for this matter is made up of the following:
 - a) The Petition
 - b) The tape recording of the hearing labeled Lake Co. 278
 - c) Exhibits:
Petitioner Exhibits: None
Respondent Exhibit 1: Form 139L Petition
Respondent Exhibit 2: Subject property record card
Respondent Exhibit 3: Subject photo
Respondent Exhibit 4: Comparable property record cards and photos
Board Exhibit A: Form 139L Petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet
 - d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases are:
 - a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v.*

Washington Twp. Assessor, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").

- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioners did not provide sufficient testimony or evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The Petitioners did not submit any probative evidence or testimony concerning the assessment. The Petitioners protested the amount of property taxes levied, not the value of the subject property.
 - b) The Petitioners did not establish that the assessment was incorrect and did not establish what the correct assessment should be.

Conclusion

17. The Petitioners did not establish a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.